

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

V.

N.O.A.H., NEIGHBORS ORGANIZED TO
ASSIST HUMANITY, INC.

Defendant.

CIVIL ACTION NO.
1:08-cv-0175-SEB-TAB

CONSENT DECREE

This action was instituted by the Equal Employment Opportunity Commission (“Commission”) under the authority granted to it under Section 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1). The Commission’s action was brought to correct alleged unlawful employment practices on the bases of sex and retaliation. Specifically, the Commission alleged in its Complaint that N.O.A.H, Neighbors Organized to Assist Humanity, Inc. (“NOAH”) subjected Tyrena Davis to sexual harassment and discharged her due to sex and in retaliation for complaining about the harassment, in violation of Title VII.

The Commission and NOAH hereby stipulate to the jurisdiction of the Court over the parties and the subject matter of this action.

The parties have advised the Court that they desire to resolve the remaining allegations in the Complaint without the burden, expense, and delay of further litigation.

It is therefore the finding of this Court, made on the pleadings and the record as a whole, that: (1) the Court has jurisdiction over the parties and the subject matter of this action; (2) the

purpose and provisions of Title VII will be promoted and effectuated by the entry of this Consent Decree; and (3) this Consent Decree resolves all the matters in controversy between the parties as provided in paragraphs 1 through 15 below.

It is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. NOAH agrees that it will not discriminate against employees on the basis of sex and will maintain a work environment for all employees that is free from harassment based on sex.

2. NOAH agrees that there will be no discrimination or retaliation of any kind against any person because of opposition to any practice made unlawful under Title VII, or because of the filing of a charge, the giving of testimony, assistance, or participation in any manner in an investigation, proceeding or hearing under Title VII.

3. NOAH denies any liability and denies that it committed any wrongdoing towards Tyrena Davis.

4. NOAH agrees to pay Tyrena Davis or her heirs and assigns in the event of her death, \$50,000.00 as damages in settlement of her claim. Of this amount, \$40,000.00 shall be paid as compensatory losses and an IRS Form 1099 will be issued to her; \$10,000.00 shall be paid to Tyrena Davis, less applicable payroll taxes and shall be treated for tax purposes as wages for which an IRS Form W-2 shall be issued to Tyrena Davis. NOAH agrees not to deduct from the compensatory loss settlement amount of \$40,000.00 the amount of the employer's share of any costs, taxes or social security required by law to be paid by NOAH. All payments shall be made by check(s) and made payable to Tyrena Davis and sent to her by certified mail at 707 Hempford Court, Fort Wayne, Indiana, 46819. Upon entry of this Consent Decree, the Commission will forward a release (see Appendix A) to Tyrena Davis for her execution. The

Commission will notify counsel for Defendant on receipt of the release executed by Tyrena Davis. Then, within fifteen (15) days, Defendant shall mail the checks, by certified mail, to Ms. Davis. Defendant shall mail copies of Tyrena Davis's checks and proof of their delivery to Tyrena Davis (a signed certified mail receipt) to the Commission. Upon receipt of proof of delivery of the checks to Tyrena Davis, the Commission shall forward the release to counsel for Defendant.

5. NOAH agrees to post the Notice of Non-Discrimination Policy attached as Appendix B to this Decree in a conspicuous place on its premises. Said notice shall remain posted throughout the term of this Decree.

6. Within thirty (30) days of the date of entry of this Decree, NOAH agrees to inform all of its employees that sexual harassment is prohibited in the workplace. NOAH agrees that its policy prohibiting sexual harassment and the procedures for reporting incidents of harassment will be explained to each employee and that each employee will receive a written copy of the policy.

7. NOAH agrees to submit reports to EEOC detailing its compliance with this decree. Within sixty (60) days of the date of this Decree, NOAH will certify to the EEOC Regional Attorney that the distribution and explanation of the policy have been completed and provide EEOC with a copy of the personnel manual or memorandum containing the policy prohibiting harassment. In addition, two (2) annual reports shall be submitted during the term of this decree. The first report shall be due on December 31, 2008, with the remaining reports due annually on December 31st of each calendar year of the Decree. The reports shall include the following information for the twelve (12) month period preceding the report: a description of any and all verbal or written complaints of sexual harassment received by the company or any of

its managers or supervisors from any employee, the name and position of the complainant and the disposition of the complaint, including any discipline administered as a result of the complaint. Reports shall be sent to the attention of Laurie A. Young, Regional Attorney, or her successor, Equal Employment Opportunity Commission, 101 W. Ohio Street, Suite 1900, Indianapolis, Indiana, 46204. No annual report need be submitted if there are no complaints.

8. NOAH agrees to provide training to all of its employees on the topic of sexual harassment and retaliation. Said training must be conducted within one hundred twenty (120) days from the date of the entry of this Decree. Thirty (30) days prior to the date of the seminar, the Defendant shall provide notice to the Commission regarding the date, time and place of the training. Thirty (30) days after the seminar/training Defendant shall certify to the Commission that all employees attended and fully completed the training.

9. NOAH agrees to eliminate from the record of Tyrena Davis all references to her charge of discrimination and participation in this suit and shall make no mention of such charge or participation in the event NOAH is contacted for references by Ms. Davis's prospective employers. This provision survives the expiration of this Consent Decree. NOAH agrees that upon inquiry it will provide Ms. Davis with a neutral reference stating her dates of employment and position held.

10. NOAH agrees that the Commission may review compliance with this Decree upon reasonable suspicion of non-compliance. As part of such review, the Commission may inspect the premises, interview employees, and examine and copy documents, upon reasonable advance notice to NOAH's counsel.

11. In the event that the Commission alleges that a violation of this Decree has occurred, prior to exercising any remedy provided by law, the Commission will give notice to

NOAH in writing thereof, specifically identifying the alleged violation. NOAH will have thirty (30) days in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation, before the Commission exercises any remedy provided by law.

12. The Commission and NOAH shall each bear their own costs and attorney fees.

13. The term of this Decree shall be for two (2) years following the date of the entry of this Decree.

14. The EEOC agrees to file a dismissal without prejudice within ten days of receipt of proof of delivery of the checks to Tyrena Davis.

15. RETENTION OF JURISDICTION BY COURT The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

07/23/2008

Date

Copies to:

Jo Ann Farnsworth, Senior Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
101 W. Ohio Street, Suite 1900
Indianapolis, IN 46204

Tareen Zafrullah
Stuart Buttrick
BAKER & DANIELS, LLP
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

APPENDIX A

RELEASE

In consideration of the payment to me by N.O.A.H., Neighbors Organized to Assist Humanity, Inc., of \$50,000.00 (less any applicable taxes or withholdings), and in consideration of the Consent Decree agreed to by me, the Equal Employment Opportunity Commission and N.O.A.H., Neighbors Organized to Assist Humanity, Inc. in Civil Action No. 1:08-CV-0175-SEB-TAB, entered by the Court on the _____ day of _____, 2008, of which this Release is a part, I, Tyrena Davis, for myself and for my heirs, assigns, agents and representatives, hereby fully and forever release and discharge N.O.A.H., Neighbors Organized to Assist Humanity, Inc., its insurers, successors and assigns, including its present and former shareholders, directors, officers, employees and agents, from any claim, loss, cost, expense or obligation based on the claim that N.O.A.H., Neighbors Organized to Assist Humanity, Inc. subjected me to sexual harassment and discharged me due to my sex and in retaliation for opposing unlawful practices, violation of Title VII, as raised in Civil Action No. 1:08-CV-0175-SEB-TAB.

I agree that I will be solely and individually responsible for paying any and all taxes (including FICA or otherwise) which may be due and owing, if any, as a result of Defendant's payment of the sum set forth above. I acknowledge that I have not relied on any representations made by Defendant, its counsel, or the EEOC, or its counsel, including without limitation, any representation as to the tax treatment of the payments pursuant to this agreement.

I have read this Release and I execute it voluntarily, without coercion or threat of reprisal.

IN WITNESS WHEREOF, this Release is signed and executed by me on the _____
day of _____, 2008.

Tyrena Davis

County of)
)SS
State of)

Subscribed and sworn to before me this _____ day of _____, 2008.

Notary Public

APPENDIX B
**EMPLOYEE
NOTICE**

NOTICE OF NON-DISCRIMINATION POLICY

This Notice is being distributed and posted by agreement between N.O.A.H., Neighbors Organized to Assist Humanity, Inc. and the United States Equal Employment Opportunity Commission (EEOC).

Federal law requires that there be no discrimination against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40) or disability.

Federal law also prohibits sexual harassment in the workplace. Sexual harassment in the workplace occurs when the employer allows its employees to be subjected to verbal or physical conduct of a sexual nature and this conduct interferes with the employee's work or creates an intimidating or offensive work environment. Sexual harassment also occurs when an employer conditions an employee's continued employment upon the return of sexual favors or attention.

NOAH employees are expected to personally ensure that they do not engage in sexual harassment in the workplace.

NOAH will take disciplinary measures against those employees guilty of such harassment. Any employee who feels subjected to discrimination or harassment of any kind should immediately report it to her/her supervisor or an officer of the Company. All such reports will be investigated thoroughly and, if the report has merit, disciplinary action up to and including discharge will be taken against the offender.

NOAH supports and will comply with such Federal law in all respects and will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law or have given testimony, assistance or participation in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

Questions concerning this notice may be addressed to:
Equal Employment Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (317) 226-7212
EEOC 800 # 1-800-669-4000
TDD (317) 226-4162